



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

of the railroad policy. All this is much gained. The burnt child fears the fire, and the Granger States may rest assured that, through an indefinite future, the offensive spirit of absentee ownership will be far less perceptible in the management of their railroads than it was before and during the great railroad mania. Finally, East and West, the good which has resulted and yet will result from the Granger movement will be found greatly to predominate over the evil; what is more, the good will survive, while the evil will pass away.

C. F. ADAMS, JR.

ART. VI. — CRITICAL NOTICES.

1. — *History of the United States from the Discovery of the American Continent.* By GEORGE BANCROFT. Vol. X. Boston: Little, Brown, & Co. 1874.

THE first impression created by Mr. Bancroft's tenth volume is that he is hastening his steps. There is no sign of weariness, but there are unmistakable marks of haste, and these are sometimes annoying, as, for example, the omission of all maps and plans of battles, and also of an index. The reason is not far to seek. Mr. Bancroft is no longer young. The first volume of this work appeared forty years ago, and at the same rate of progress its conclusion was impossible. One can hardly find fault with the author whose haste springs from the earnestness of his wish to complete his task.

Undoubtedly, too, Mr. Bancroft's work improves as it goes on. This last volume is an immense advance upon the first two or three of the series. No doubt Mr. Bancroft entertains as ardent a faith now as forty years ago in the abstract virtues of democracy and "the gentle feelings of humanity," but time and experience have tempered this faith with a more searching spirit of criticism than was fashionable in the days of President Jackson. Not that Mr. Bancroft has or ever will have a strictly judicial mind, to whatever age he may live, but that his idiosyncrasies are now less prominent in his pages; and an acquaintance with the details of his subject, far more extensive than that of any other individual, living or dead, now gives those pages a practical value which the critic must begin by acknowledging in the fullest and frankest terms. In order to criticise

at all, one must use the materials which Mr. Bancroft himself has supplied.

The present volume covers a very important period both in military and civil affairs. The military history embraces the campaigns of 1778, 1779, 1780, and 1781; and thus includes the retreat of the British from Philadelphia to New York, the campaigns of Gates and Greene in the South, and of Washington in Virginia. The history of the army under the immediate command of Washington is always satisfactory reading and loses nothing in Mr. Bancroft's hands. The account of its proceedings in this volume is clear, concise, and straightforward. Every reperusal of this familiar story brings to notice only fresh causes for admiring the combination of prudence with daring, patience with energy, and military skill with political foresight, which distinguishes Washington from all other generals of whatever time or nation, and which appears in strong contrast to the mistakes and faults of his rivals and subordinates. Of these, the most dangerous, if not the most capable, was General Gates, whose short and disastrous Southern campaign in 1780 forms a part of this volume. Mr. Bancroft's treatment of this subject, severe as it is upon the conduct of Gates, appears to be just and in accordance with sound criticism. General Gates was superseded and General Greene put in command. The campaign of 1781 began in the month of January by Tarleton's attack on General Morgan at the Cowpens. Mr. Bancroft's account of this battle, though correct in its facts, gives to Morgan more credit for this victory than military critics will readily allow. The estimate of Morgan's abilities is a very high one indeed, while his mistakes are very gently dealt with. Yet at the Cowpens General Morgan deliberately chose a position on open ground where his troops, mostly infantry, could be advantageously attacked by the British cavalry, with a river in his rear which precluded escape in case of defeat, and he drew up his little army in order of battle with the raw volunteers in advance, where they were exposed to the whole brunt of the enemy's attack. In fact Morgan did almost everything which he should not have done, and yet by his own bravery and the heroic behavior of his troops he utterly defeated the flower of the British army and gained a very undeserved reputation as a general.

General Greene's campaign is related with much fairness by Mr. Bancroft. Greene's measures seem to have been conceived with judgment and carried out with energy and courage, although his singular system of disposing his forces for battle was undoubtedly the cause of several defeats. There seems to be no occasion for objecting to Mr. Bancroft's treatment of this very important part of the mili-

tary history of the war ; and the same remark may be also made of his account of the campaign at Yorktown. All is here simple, clear, not disfigured by the author's radical fault of excursiveness, and, with the single exception of maps and plans, nothing essential seems to have been omitted.

As between the Americans and the English, it cannot be denied that Mr. Bancroft betrays a strong inclination to favor his countrymen. This leads him occasionally to state facts in language that is liable to a charge of misstatement, as, for instance, in the account of the engagement at Hanging Rock (p. 314), where his language is certainly calculated to convey the idea that the post was captured by Sumpter, whereas in fact the Americans were repulsed and obliged to retreat. So too in regard to the execution by Cornwallis in 1780 of those among his prisoners who had formerly given their parole and were again taken in arms, Mr. Bancroft asserts that their paroles were cancelled by Clinton's proclamation of June 3, 1780, and asserts that "to bring these men to the gibbet was an act of military murder." But it is to be observed that the proclamation in question refers only to those persons who were paroled prior to the capture of Charleston, and does not affect those captured at that place and in subsequent engagements, and it does not appear from Mr. Bancroft's account that those who were executed belonged to the former class, while, on the contrary, the English accounts state that they belonged to the latter. These executions, therefore, as well as the so-called murder of Mr. Isaac Hayne, in July, 1781, although doubtless cruel and unnecessary, must be regarded as strictly in accordance with military law. Mr. Bancroft's further assertion (p. 492) that the loss by the British of the power to protect Mr. Hayne released him from his parole, is a new and strange interpretation of military law and custom, and one which, if generally accepted, would tend to increase the rigors of war by greatly limiting the use of paroles.

But it is in the diplomatic history of this period that Mr. Bancroft's success is most striking, and here no candid critic can deny that he has rendered in this volume an immense service to his countrymen. For the first time the whole field of European diplomacy is laid open. Mr. Bancroft has ransacked the archives of Europe and drawn from them a vast amount of new and valuable material ; he has worked with all the advantages of diplomatic experience and with the broadest plan. It is true that he falls here at times into his old excursive ways and runs into digressions that interrupt the development of his story, as, for instance, when he devotes an entire chapter of thirty-three pages to a review of German history from

prehistoric times, — a review which has no special value, except as a personal compliment to the nation in whose capital it was written. Nor does the actual influence of Germany on American affairs seem to justify the relative prominence which is given to Frederick the Great, although the subject is new and interesting as well as valuable within its own range. On the other hand, there is nothing better in the volume than the manner in which the hitherto neglected story of Spanish influence in American affairs is worked out. For this the public is under a real obligation to Mr. Bancroft of a very decided kind, for his story puts at rest forever the old charge of ingratitude to France, which has been so often and so strongly pressed against the American negotiators of the peace.

Mr. Bancroft's weak point, however, seems to be a certain vivacity or restlessness of mind which is apt to mislead his readers as to the relative importance of events. He himself understands perfectly well what these relative values are, but a new idea or a new fact stands out in more prominence in his pages than it does in his own mind. Hence he devotes great care and excessive space to the subordinate but novel story of German and Russian diplomacy, including more than thirty pages of pure German history, while the story of the negotiation for peace, the most important and the most brilliant effort of American diplomacy, occupies little more than forty pages. Possibly, indeed, the sudden compression may here be due to a rapidly increasing conviction that the historian must delay no longer to complete his task; but if so, the result is unfortunate, since another opportunity for writing the history of that negotiation as it should be written is now lost. Yet even in Mr. Bancroft's story, short as it is, there are some opinions expressed which are open to question. His treatment of the negotiation as a matter of English politics, for example, seriously affects his entire view of the subject, and leads to results which diminish the natural effect of the drama.

Lord Shelburne is a favorite with Mr. Bancroft, from which it naturally follows that Mr. Fox is, at least as opposed to Shelburne, his antipathy. This is perhaps a natural feeling enough, since Fox certainly showed himself in a very indifferent light in his coalition with Lord North which overthrew the Shelburne Ministry in 1783. But Mr. Bancroft is here dealing with a previous affair; and as between Fox and Shelburne, the two great and equal forces of the short-lived Rockingham administration of 1782, there is more to be said for Fox and against Shelburne than Mr. Bancroft, or even Sir G. C. Lewis, has found room to say. That Shelburne was supported by the king is alone a very suspicious fact, for the king hated Fox, and Shelburne

knew it and fell a sacrifice far more to his compliance with the king's prejudices than to Fox's ambition. A short sketch of the whole affair will show how it affects the character of Mr. Bancroft's history of the negotiation.

The news of Cornwallis's surrender reached England on the 25th of November, 1781, and shook the authority of Lord North to its foundation. On the 20th of March, 1782, North announced in the House of Commons that his administration was at an end. The king sent for the Earl of Shelburne, who insisted upon bringing the Rockingham party, of which Fox was the real chief, into the Cabinet, "cost what it would, more or less." At this time it is clear that Shelburne perfectly understood that union with Fox at any cost was his true policy. "Necessity made me yield," said the king, who would have taken Rockingham readily enough, but who could not endure Fox. The Cabinet was then formed by a fairly equal division of power between Shelburne and Rockingham. Rockingham took the Treasury; Fox became Secretary of State for Foreign Affairs, which gave him the negotiation with France, Spain, and Holland; while Shelburne became Home Secretary, which gave him the control of colonial business, and therefore the negotiation with the revolted Colonies, since Great Britain had not yet recognized their independence.

From the first Fox distrusted Shelburne, whom Junius fifteen years before had nicknamed *Malagrida*, that is, a Jesuit of a peculiarly rabid kind. Mr. Bancroft affirms that Shelburne was straightforward. His contemporaries were not of that opinion. But honest or not, Lord Shelburne was imperious, jealous, and suspicious. Fox very soon got the idea that he was betraying the liberal party into the king's hands, and this idea was correct to the extent that Shelburne drew further and further away from Fox and leaned more and more upon the king. The divergence was due, according to Mr. Bancroft, to Fox's desire of power; he wanted to get the negotiations for peace wholly into his own hands, and therefore urged the immediate recognition of American independence as a preliminary to negotiation, because this act of recognition would have made the colonies a foreign state and transferred their affairs from the Home to the Foreign Office. And why not? From every point of view this was sound policy, and Shelburne ought to have conceded the point. By doing so, he would have saved his administration and acted a wise, straightforward, and vigorous part. And in fact he did appear to do so. On the 10th of June Fox was directed by a cabinet order to instruct Mr. Grenville, the British envoy at Paris, that he was "no longer to mention the independence of America as a cession to France or as a

conditional article of a general treaty ; but he was at the same time instructed to observe to the French ministry that the independence of America was proposed to be acknowledged ; and to remark that this, which they had emphatically called the object of the war, being done spontaneously, little difficulty ought to remain in regard to other points," etc. Mr. Grenville accordingly, on the 15th June, went to Vergennes and Franklin, and told them that "he was now authorized to declare the independence of America previous to the treaty." Instructions were also sent in the same words to Sir Guy Carleton at New York. The sequel may be best told in Mr. Fox's own words : "What then must be his (Fox's) astonishment and torture, when in the illness and apprehended decease of the noble Marquis (of Rockingham), another language was heard in the cabinet, and some even of his own friends began to consider these letters only as offers of a conditional nature, — to be recalled if they did not purchase peace. I considered myself as ensnared and betrayed. I therefore determined to take the measure by which alone I could act with consistency and honor. I called for precise declarations. I demanded explicit language ; and when I saw that the persons in whom I had originally had no great confidence, were so eager to delude and so determined to change the ground on which they had set out, I relinquished my seat in the Cabinet." Fox's retirement immediately preceded the death of Lord Rockingham, which occurred on the 1st July.

Whether the ground taken by Fox will justify his action is a question that need not be discussed. Shelburne apparently thought the issue a decisive one, for he allowed Fox to go out upon it. Indeed, a month earlier Shelburne's agent, Oswald, had betrayed his chief's opinion by a stupid remark to Grenville in Paris, "that the Rockingham party were too ready to give up everything" ; a remark which indicates that the difficulty was not merely one of power, as Mr. Bancroft asserts, but of policy. And as a point of policy there can be no question that Fox was right and Shelburne wrong.

But right or wrong, Fox went out, and Shelburne allowed him to do so, having apparently forgotten his conviction of four months ago that the assistance of Fox was necessary, "cost what it would, more or less." Is it unreasonable to assume, as Fox, Burke, and Sheridan assumed, that, in following this course, Shelburne was acting merely as a tool of the king? At all events the ministry were now in an extremely weak position. Without a majority in Parliament, without the support of any strong popular sympathy, Shelburne's only chance of saving, not his office, but his reputation for ordinary common-sense, depended on his meeting Parliament with a peace of some kind in

his hand. The terms of this peace, so far at least as America was concerned, were a matter of secondary importance. In other words, Shelburne had no choice but to throw himself into Franklin's hands. He allowed Franklin to select even the negotiator, and the excellent Oswald proved wax to the touch of his astute opponent. The interests of England were flung to the winds, and Franklin for the time became the most powerful as he was the ablest diplomat in Europe.

Franklin was ready to negotiate, but Jay now intervened. Jay insisted upon what Fox had required, — a preliminary recognition of independence. Shelburne thereupon yielded so far as to issue a new commission to Oswald, authorizing him to conclude a peace or truce with commissioners of the thirteen *United States of America*. This satisfied Jay, and on receiving intelligence of the fact from him in a letter dated September 28, John Adams hastened to Paris.

Franklin, having now overcome this last difficulty, had only to guide his impetuous colleagues and prevent discord from doing harm. How dexterously he profited and caused his country to profit by the very idiosyncrasies of those colleagues with which he had least sympathy; how skilfully he took advantage of accidents and smoothed difficulties away; how subtle and keen his instincts were; how delicate and yet how sure his touch; — all this is a story to which Mr. Bancroft has done only partial justice. Sure of England, Franklin calmly ignored Spain, gently threw on his colleagues the responsibility for dispensing with the aid of France, boldly violated his instructions from Congress, and negotiated a triumphant peace.

But in all this, what can be said in praise of Lord Shelburne, unless it be that he was inspired by a philanthropic wish to reconcile the new nation and prevent future wars? If he had been in a stronger position at home, however, this philanthropy, born of Franklin's cajolery and Oswald's incompetence, would hardly have prevented him from insisting upon the line of the Penobscot as the Canadian frontier; and had he insisted, he would certainly have carried his point, in spite of New England. That Canada has no winter seaport, wanting which she is condemned to a maimed existence, is Lord Shelburne's doing and America's good fortune. Nor was this all. Nothing was really refused to the American commissioners. Whatever they claimed was conceded. For this America may indeed be grateful to Shelburne; but the world can hardly be expected to admire his abilities as a statesman.

And finally, as an example of Lord Shelburne's straightforwardness, one more incident is to be mentioned. When the provisional treaty was brought before Parliament, Fox asked Ministers whether the rec-

ognition of independence which it contained was final, or depended on the success of the general negotiations. Townshend, Pitt, and Conway in the Commons replied that it was final, and only so far provisional as it was dependent upon the ultimate conclusion of peace with France; that is, that a rupture of the present negotiation would not make the recognition void, but only postpone its effect. In the House of Lords, Shelburne asserted just the contrary. And when in the next debate he was pressed by the astonished Lords for a categorical reply to the same question in a written form, Shelburne positively refused to answer, though the question was the same he had answered before, and gave for his reason of refusal the statement that "declaring war and making peace were the undoubted prerogative of the crown, and ought to be guarded from all encroachment with the most particular care." If this is an example of straightforwardness, it must be acknowledged that Fox was wrong in doubting Shelburne's honesty.

One is somewhat at a loss to understand why Mr. Bancroft has chosen the conclusion of the provisional treaty with America as his stopping-point. No doubt he has sufficient reasons for doing so, but it would have been perhaps advantageous to the unity of his story if he had added another chapter to complete the history of the negotiations within the present volume. In this case he would have given his view of the interesting collision between Vergennes and Franklin, and the serious charges of duplicity and discourtesy which Vergennes brought against the commissioners. Fortunately, however, the earlier chapters of the volume leave little doubt upon the point. From the extremely valuable material which Mr. Bancroft has brought to light, the motives of Franklin's action are made perfectly clear. The key to the whole situation is found in Franklin's letter to Jay of April 22, summoning Jay to Paris: "Spain has taken four years to consider whether she should treat with us or not. Give her forty, and *let us in the mean time mind our own business.*" From the first, therefore, Franklin pursued the policy of avoiding entanglements with Spain, but to do so it was absolutely necessary to keep the negotiations in his own hands, since the pressure of Spain upon Vergennes was such that France could not, even if she would, have avoided subordinating American to Spanish interests. This was effectually prevented by Franklin and his colleagues, though at the cost of acting in the teeth of their instructions. In the light of Mr. Bancroft's investigations, the wisdom and good faith of this course are established beyond further dispute. If Vergennes was irritated by it, the irritation was due to the fact that it debarred him from using the

Americans for the advantage of Spain. So far as French interests were concerned, the American commissioners acted in perfect good faith, and Vergennes had no ground of complaint.

Passages in the present volume will no doubt rouse more grandsons to opposition, but on the whole Mr. Bancroft seems inclined to evade strife of this kind. He is perhaps somewhat harsh towards Jay, and surprisingly gentle towards Adams, who was yet in close sympathy with Jay, and whom Franklin at this time officially declared to be "sometimes and in some things absolutely out of his senses." On the other hand, Mr. Bancroft's treatment of this most brilliant part of Franklin's brilliant career is, as has already been intimated, more subdued and simple in tone than might have been expected. Yet after making all fair allowances for these merely personal matters and for the inevitable peculiarities of Mr. Bancroft's literary style, there remains to this volume a degree of merit and solid value which will compare most favorably with that of any preceding volume, and which will inevitably and permanently affect the ultimate judgment of mankind on the great period here described.

2. — *Lectures on the Early History of Institutions.* By SIR HENRY SUMNER MAINE, K. C. S. I., LL. D., F. R. S. New York : Holt & Co. 1875.

THE American public owe a debt of gratitude to Mr. Holt for the taste and judgment which have led him to produce this American edition of Sir Henry Maine's works. Its form leaves nothing to be desired. It is creditable at once to the publisher and to the public that in these days of universal distress such an undertaking should be attempted.

A new work by Sir Henry Maine is one of those pleasures to which a certain portion of the most highly educated class of English and American readers look forward with hardly less interest than to a new work of Darwin or Spencer. Few men of this generation have had a more distinct and active influence on the minds of the younger and future lawyers and historians than Sir Henry has exercised. Few men have done more than he to stimulate thought and enlarge its range. In the field he has chosen there is no English writer who approaches him.

The new volume is a chapter on the old subject. Sir Henry's first book on Ancient Law treated the dark history of law chiefly from a Roman stand-point. The author then went to India and drew fresh